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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,058	01/15/2004	Ajay Bhatia	210121.515D1	4962

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EXAMINER

BASKAR, PADMAVATHI

ART UNIT PAPER NUMBER

1645

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,058	<b>Applicant(s)</b> BHATIA ET AL.	
	<b>Examiner</b> Padmavathi v. Baskar	<b>Art Unit</b> 1645	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/03/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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# **DETAILED ACTION**

1. Applicant's amendment filed on 1/15/04 is acknowledged.

## ***Status of Claims***

2. Claims 1-18 have been canceled.

New Claims 19-26 have been added and are pending in the application.

## ***Information Disclosure Statement***

3. Information Disclosure Statement filed on 10/03/05 is acknowledged and a signed copy is attached with this action.

## ***Specification Informalities***

4. Applicant amended the specification on 1/15/04 and included the priority document 09/861240. However, Applicant is advised to update the status of priority document as abandoned in the Specification.

## ***Claim Rejections - 35 USC 101***

5. 35 U.S.C. 101 reads as follows:  
"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title".
6. Claims 19-26 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility.

Claims 19-26 are drawn to a method of stimulating an immune response, said method comprising administering a composition comprising: (a) an isolated polypeptide comprising SEQ ID NO: 140; (b) an isolated polypeptide comprising an immunogenic portion of SEQ ID NO: 140 and; and (c) an isolated polypeptide having at least 95% identity to SEQ ID NO:140, and thereby stimulating an immune response specific for a Chlamydia CT-875 protein a physiologically acceptable carrier and adjuvant, said adjuvant induces an immune response

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predominantly of the Th1 type, said adjuvant is selected from the group consisting of monophosphoryl lipid A, 3-de-o-acylated monophosphoryl lipid A, CpG- containing oligonucleotides, saponins, QS21, the adjuvant is an aminoalkyl glucosaminide 4-phosphate, said glucosaminide 4- phosphate is RC-529, said polypeptide is SEQ ID NO: 140.

The claimed inducing a specific response to Chlamydia CT-875 protein using a polypeptide SEQ.ID.NO:140 is inoperative because the sequence search revealed that there is no identity between SEQ ID NO:140 and Chlamydia CT-875 protein and thus one would not be able to induce an immune response specific to Chlamydia CT-875 protein with SEQ ID NO:140. The specification teaches SEQ.ID.NO:140 is CT622 protein whereas SEQ.ID.NO: 139 is CT875. Therefore, the invention is inoperative as claimed.

***Claim rejection 35 U.S.C. 112, first paragraph***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 19-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, since the claimed invention is INOPERATIVE for the reasons set forth in the rejection under 35 USC 101 above, one skilled in the art clearly would not know how to use the claimed invention.

9. Claims 19-26 are also rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the

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relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. THIS IS A NEW MATTER REJECTION.

The limitation of producing an immune response specific to CT875 using SEQ.ID.NO:140 has no clear support in the specification and claims as originally filed.

#### ***Status of Claims***

10. No claims are allowed.

#### ***Conclusion***

11. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

*Padma Baskar*  
PH.D.

SUSAN UNGAR, PH.D.  
PRIMARY EXAMINER

*Susan Ungar*

TO: padma baskar COMPANY: